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COMMITTEE ON THE RIGHTS OF THE CHILD

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Initial reports of States parties due in 1992

Addendum

ROMANIA

[14 April 1993]

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Introduction

Pursuant to Article 44.1(a) of the Convention on the Rights of the Child and in accordance with the General guidelines regarding the form and content of initial reports to be submitted by States parties, the present initial report on the measures adopted by Romania with a view to the implementation of the Convention and on the progress made in this area during the period 1990-1992, since its entry into force, is hereby submitted to the Committee on the Rights of the Child.

Romania ratified the Convention on 28 September 1990.

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* *

At the time of signing the Convention, Romania already had a comprehensive legal system for the promotion of the rights of the child which provided a suitable basis for the acceptance and implementation of the United Nations Convention on the Rights of the Child. Thus, the Family Code and Decree No. 31/1954 concerning natural persons, which entered simultaneously into force (in February 1954), established a series of principles and institutions relating to the rights of the child, namely:

- All the regulations concerning the legal regime applicable to minors were based on the principle of the promotion and defence of the interests of the child;
- The "parental authority" of the previous regulations was replaced by the concept of "parental care";
- Discrimination between parents was eliminated by granting father and mother equal rights and duties with respect to the rearing, care, education and supervision of the child;
- The age of attainment of majority was fixed at 18;
- A progressive regime of acquisition of (limited) legal capacity, at 14 and 16 years of age, was introduced;
- Parental powers over the property of the child were restricted to the rights which derive from the duty of care and inheritance.

Moreover, in 1958, State protection measures were further reinforced by the insertion of new provisions in the Penal Code making it a criminal offence to engage in acts calculated to infringe the rights of the child.

Another important legal milestone was the passage of Act No. 3 of 1970 concerning the protection of certain categories of minors.

To complete this picture of the legislation in force at the time of ratification of the Convention, it is also necessary to mention a series of measures relating to the provision of financial support for the family in the form of State allowances for parents employed under indefinite contracts of employment, aid from State social security funds for women on maternity leave (112 days), a birth allowance made to mothers starting from the third child, aid

for the wives of serving members of the armed forces, allowances for the care of children in foster homes, grants for schoolchildren and students, and State social security pensions for minors who inherit.

The regulations concerning free compulsory general education (generally for ten years) and free higher secondary and university education and those relating to the protection of children and young people at work (no night work, no hazardous work, additional time off and study leave, etc.) are also worth noting.

Despite these legislative provisions, during the totalitarian period it became apparent that the system for the protection, education and care of children, especially orphans and handicapped or abandoned children, had a number of grave deficiencies. In particular, the quality of the services provided was poor, the material and financial resources made available were insufficient, the child care institutions were too few and understaffed, and a deliberate policy of forcing up the birth rate was pursued. All this went hand in hand with negligence and the covering up of serious situations - the direct consequences of the conditions and policies described - among certain categories of minors and their families, with the true parlous state of affairs being deliberately concealed from public opinion, at home and abroad.

Perhaps worst of all, the communist regime concentrated vulnerable and disadvantaged children in large institutions, genrally located away from the towns, where they lived a miserable existence under conditions of almost total disregard for the basic requirements of hygiene and health, education, care and supervision, with the result that these institutions became little more than grim "gulags" for children.

All these situations were brought suddenly and brutally to light in the period immediately following the Romanian revolution of December 1989 and for a while - under the contradictory and particularly complex conditions of the post-revolutionary period which saw the establishment of a State subject to the rule of law, the formation of new social and human relations, and the renewal of the entire social and economic system - they persisted, and occasionally and in places may even have grown worse. Gradually, however, as Romania emerged from the first phases of this arduous period of transition, through its own efforts and thanks to generous international support, things began to change and progress was recorded, especially as regards the plight of children placed in institutional care. A strategy and a policy of comprehensive protection and social security for minors began to be worked out; a new approach was taken to the problems of their care and development; State and non-governmental mechanisms designed to bring about a continual improvement in their situation were devised, all on a scale of priorities ranging from emergency projects to medium-term and long-term action programmes.

Two events, in particular, constitute important milestones along this new path: the ratification of the Convention by Parliament and the signing by the President of Romania, along with other Heads of State and Government, of the World Declaration on the Survival, Protection and Development of Children on 30 September 1990 in New York.

This report should be examined in close conjunction with the core document concerning Romania of 21 September 1992 (HRI/CORE/1/Add.13), which describes the general legal background to the exercise of human rights and fundamental freedoms in Romania.

I. GENERAL MEASURES OF IMPLEMENTATION

A. Action taken to make the Convention known to adults and children

1. In accordance with the provisions of article 42 of the Convention, important measures have been taken to implement the Convention and make it known, to adults and children alike.

2. Thus, immediately after ratification, the Convention was published in the Romanian Official Journal, No. 109 (1990). Similarly, the complete text of the Convention was published in brochures and leaflets dealing with problems of child care and education, 15,000 copies having been distributed by the Romanian National Committee for UNICEF and 20,000 by the non-governmental organization Save the Children.

3. Starting in December 1990, the Romanian National Committee for UNICEF organized several discussions on the application of the provisions of the Convention. Thus, on 17 April 1991, in collaboration with the Ministry of Foreign Affairs, the Ministry of Justice, the Ministry of Education, the Ministry of Youth and Sports and other governmental agencies, national and international, a conference was held on "The application of the Convention on the Rights of the Child: strategies, priorities, prospects". This provided an opportunity for serious dialogue between the various parties involved in implementing joint action programmes.

4. The Romanian National Committee for UNICEF proclaimed June 1991 the "month of the child" and throughout the country numerous events, designed to make the provisions of the Convention more widely known, were organized. Similarly, starting in January 1992 and continuing throughout that year, the Romanian National Committee for UNICEF, with broad support from local representatives of the government and local authorities, as well as numerous institutions and personalities and representatives of UNICEF in Bucharest, organized "children's rights days" in 23 of the country's 41 departments (including the municipality of Bucharest). These were large-scale complex events devoted to the popularization and application of the Convention, the sharpening of public awareness and the mobilization of opinion behind the rapid and sustained implementation of the provisions of the Convention by all those responsible for the education, health and social protection of children and young people, support for large families, the protection of the environment, recreation and leisure activities, etc. The events, which were held in every region, for both children and adults, had the full support of the prefects and mayors and of the local governmental and non-governmental associations and organizations, which turned them into a genuine process of interaction and alliance in favour of the child. High government officials, members of parliament, departmental and municipal authorities, representatives of culture and the arts, priests, teachers, lawyers, journalists, children, adolescents and parents all took part in the regional closing ceremonies. The events organized in connection with this operation extended over 10 to 15 days in each department and took a wide variety of forms: conferences, symposia, seminars, debates, meetings of children, adults and parents, of experts in various fields, competitions to illustrate in a practical way the problems dealt with by the Convention, film and theatre festivals, shows, carnivals, etc. The activities, interrupted during the summer, were resumed in January 1993 in other parts of the country.

5. On 17 June 1991, an international conference, one section of which was exclusively devoted to ways of reflecting the provisions of the Convention in

Romanian legislation, was held in Bucharest. Periodic activities have also been organized in schools, nursery schools, children's homes, child care institutions and hospitals, at the initiative of State bodies and non-governmental organizations.

6. In the same vein, in May-June 1992 the Committee for the support of child care institutions (CSIOC), in collaboration with the International Social Service (ISS) and the Defense for Children International Movement - non-governmental organizations with consultative status enjoying the financial support of the Commission of the European Communities - organized a series of seminars on the theme "The child and the family within the Romanian system of protection". The aims of these seminars were: to stress the vital importance of the family unit for the harmonious development of the child; to broaden the mentality of the participants with regard to the prospects for children placed in insitutional care; to explain the legislation in force and make known the international texts relating to the protection of the child, especially the provisions of the Convention; to facilitate the exchange of experience between those working in the field and those who had arranged the seminars in which, incidentally, experts from Belgium, Brazil, France, Italy and the Netherlands all took part. Numerous other activities aimed at spreading knowledge of the provisions of the Convention and sharpening awareness among the public and children have been undertaken by various institutions and other non-governmental organizations.

B. Measures taken to harmonize law and policy with the provisions of the Convention

7. In the spirit of article 4 of the Convention, Romania's new Constitution, which entered into force on 8 December 1991, contains an article 45 wholly devoted to the protection of children and youth, which states:

> "1. Children and youth shall enjoy special protection and assistance in realizing their rights.
>
> 2. The State shall provide State allowances for children and aid for the care of sick or handicapped children. Other forms of social protection for children and youth shall be determined by law.
>
> 3. The exploitation of minors and their use in activities harmful to their health or morals or which might endanger their normal development shall be prohibited.
>
> 4. Minors under the age of 15 may not be hired as employees.
>
> 5. Public authorities must help to create the conditions for the free participation of youth in the political, social, economic, cultural and sporting life of the country."

8. At the same time, article 46 of the Romanian Constitution concerning the protection of the handicapped is primarily aimed at children. According to this article, the State will ensure the implementation of a national policy of prevention and of treatment and social integration of the handicapped, while respecting the rights and duties of parents and guardians.

9. Other constitutional provisions enshrine the principles of family life: the principle of equality of the parents in the exercise of their rights and

duties relating to the rearing, education and instruction of their children; and the principle of equality before the law of children born in and out of wedlock. These two principles are inscribed in article 44 of the Constitution, according to which: "1. The family is based on a marriage freely consented to by the spouses, on their equality, and on the right and duty of parents to rear, educate and instruct their children. 2. The conditions in which marriages may be contracted, dissolved and annulled are stipulated by law. 3. Children born out of wedlock are equal before the law to those born in wedlock."

10. In conformity with the provisions of the Convention, certain laws have been amended or supplemented. For example:

• Act No. 3/1970 concerning the protection of certain categories of minors, as amended by Decree-Law 138/1990, according to which the law protects the following categories of minors:

(a) Minors whose parents are deceased, unknown or in a situation that leads to the child being placed in care;

(b) Minors who, being impaired, are in need of special care which cannot be provided by the family;

(c) Minors whose physical, moral or intellectual development is at risk within the family circle;

(d) Minors who have committed offences punishable under the penal code but are not criminally responsible, or are exposed to the risk of committing such offences, or whose behaviour contributes to the spread of vice or immorality among minors.

• Act No. 6/1992 and the Romanian Government's Decision No. 250/1992 concerning paid holidays, according to which employees are entitled to 18 to 25 days paid annual leave depending on their seniority. Thus, those with up to 5 years of service are entitled to 18 days, those with between 5 and 15 years to 21 days, and those with more than 15 years to 25 days. Young people less than 18 years of age are entitled to 24 days.

• Decree-Law No. 31/1990 concerning paid leave to care for children less than one year old;

• Act No. 1/1991 concerning social security for the unemployed and their vocational reintegration;

• Act No. 87/1992 concerning the hiring of young people graduating in 1992 from institutions of higher, lycée and post-lycée education, which provides subsidies for state and private enterprises and public institutions which hire graduates of that year under a contract of employment, for a period of ninth months from the date of employment.

11. In the context of the improved legal framework for the protection of children, appropriate strategies have been developed on the basis of the following principles, which are to be found in the text of the Convention: assistance for families with one or more children to care for; every child has the right to a permanent family; every effort must be made to ensure that children placed in institutional care are reintegrated into their own family; when the natural or adoptive parents are incapable of caring for the child, the

latter shall be considered to be in need of placement, temporarily or permanently, in a substitute family; every special measure for the protection of the minor must take into account the general principle according to which "the needs of the child come first" and must take the wishes of the child into consideration; the development of minors who are the subject of a protective measure must be monitored and that measure must be changed if the needs and interests of the child so require; preventive steps must be taken to ensure that the minor is not exploited, neglected or abused; everything must be done to enable all the rights accorded to the child by the law to be exercised, solely in his interests.

12. Among the steps taken to improve the legislative framework for the protection of children, in conformity with the Convention on the Rights of the Child, the efforts to coordinate the initiatives in this field with those taken by European and sub-regional bodies should not be overlooked. Thus, a representative of the Romanian National Committee for UNICEF participated in the European Conference on the protection of the child: trends and prospects, organized by the Greek Social Security Committee and UNICEF, with the support of the Commission of the European Communities, and held in Athens from 29 November to 1 December 1991; representatives of CSIOC, of the Romanian Adoption Committee (CRA) and the Ministries of Labour and Social Security and Justice participated in the International Seminar for Central and Eastern Europe on the "Application of the Convention on the Rights of the Child: alternative care for children who have been abandoned or are at high risk of abandonment", held at Sofia from 28 September to 2 October 1992 under the sponsorship of UNICEF, the International Social Service, the Defense for Children International Movement, the Bureau international catholique de l'enfance, and the Bulgarian National Committee for UNICEF.

13. At present, the Romanian National Committee, in cooperation with the Ministry of Justice, is working to have incorporated in the Romanian legislation relating to children the provisions of the resolution inviting the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe to examine the possibility of drawing up an additional protocol to the European Convention on Human Rights which would establish a better inventory of children's rights in the form of a European Charter of the rights of the child.

C. Mechanisms at national and local level for coordinating policies relating to children and monitoring the implementation of the Convention

14. At national level, the activities aimed at promoting and protecting the interests of the child are being coordinated, depending on the particular sphere of action, by the departments of central government, namely the Ministry of Health, the Ministry of Labour and Social Security, the Ministry of Justice, the Ministry of Youth, the State Secretariat for the Handicapped, and the Department of Local Public Administration; by specialized government agencies such as the Central Committee for the orientation and coordination of activity on behalf of minors, the Committee for the support of child care institutions (CSIOC), the Romanian Adoption Committee (CRA), and the Institute for the Protection of Mother and Child; and by the non-governmental organizations which, in addition to the Romanian National Committee for UNICEF (established in February 1990), include the Save the Children organization set up in 1991, the foundation Nos Enfants, CARITAS, the Romanian charity CARROM, Christiana, the Romanian Association for the Rights of the Child, the association Espoir, the Association for Assistance to Children's Homes, S.O.S - the Romanian children's villages, Concordia, the Romanian League for Mental Health, the League of Orthodox

Romanian Youth, the Messengers of Health, and the Romanian Association Against Aids. taking the numerous foreign NGO's into account results in a grand total of almost 400 such organizations.

15. In order to provide for the effective circulation of information and the publicization of various projects on behalf of children, another body, the Romanian Information Clearing House, which publishes a monthly bulletin, has been set up within the Ministry of Health.

16. Certain non-governmental organizations have created structures for joint action in a particular field (for example, the agreement between the Romanian National Committee for UNICEF and 15 other NGO's - 13 Romanian and 2 foreign - on the problems of street children).

17. Recently, with the cooperation of the UNICEF Office and the Romanian National Committee for UNICEF, together with the ministries concerned (Ministry of Labour and Social Security, Ministry of Health, Ministry of Education, State Secretariat for the Handicapped), a National Forum of non-governmental organizations on the subject of "child protection: the transition from emergency assistance to improved systems of protection was held in Bucharest. There was a keen and productive exchange of views between the NGO's and the government departments involved, with a view to assessing the results of previous joint action and devising child protection strategies for the future.

18. Special departments for child protection have been set up within certain ministries. Thus, at the Ministry of Labour and Social Security, a General Welfare Directorate, specializing in the welfare of the minor and the family, is responsible for coordinating and monitoring the application of the relevant legislation at national level. At regional level, this central organization has its counterparts in departmental welfare offices with responsibilities in the field of family and child welfare.

19. According to Law No. 3/1970 concerning the protection of certain categories of minors, again within the Ministry of Labour and Social Security, there is a central committee for the protection of minors and, at regional departmental level, corresponding local committees whose activities are coordinated by the central body. The local committees are composed of representatives of the public services of the ministries and other central agencies with responsibilities for the protection of minors. The chairman of the committee is the Secretary of the Departmental Council. The regional committees implement the child protection measures provided for in Act No. 3/1970, with the exception of placement in foster care, which is the responsibility of the departmental welfare offices, and monitor the development of protected minors.

20. The Ministry of Health has set up a welfare directorate for mothers, children and adolescents which helps to protect the rights of the child. This directorate's primary responsibilities are as follows: to prepare draft legislation relating to socio-medical measures that affect the state of health of mother, child and adolescent; to analyse morbidity and mortality trends among infants, children and adolescents and to frame proposals for bringing about a decline in these trends through the application of measures specific to each age group; to propose measures relating to emergency medical assistance for children and adolescents and to supervise their implementation; to study morbidity among children and adolescents due to chronic diseases and morpho-functional, metabolic and mental insufficiency and the factors that influence these conditions, and to devise medico-pedagogical measures designed both to meet the

immediate need and to provide specialized units to rehabilitate children and adolescents and adapt them to the educational process; to coordinate and monitor the activities of care centres (orphanages, nursery schools) and medical and sanitary conditions in homes for children of pre-school and school age; to organize family planning and birth control programmes and to develop a network of prenuptial advisory bureaus. These responsibilities are subordinate to the fundamental principles of respect for human rights in general and the rights of the child in particular.

21. The Romanian Government's Decision No. 1161/1990 established a State Secretariat for the Handicapped having as its aims the socio-vocational re-adaptation and integration and special protection of the handicapped. The State Secretariat for the Handicapped is responsible for organizing a unified system for the dissemination of information on the economic, socio-medical, vocational and family problems of the handicapped, for framing and submitting to the government for approval strategies for their rehabilitation and socio-vocational integration, for preparing or participating in the preparation of draft legislation dealing with the problems of the disadvantaged, for giving advice and for undertaking, together with central and local bodies, joint special educational and vocational initiatives to alleviate, limit or eliminate the consequences of disability, for coordinating medico-pedagogical, psycho-social and vocational rehabilitation activities, etc.

22. Government Decision No. 1032 of 17 September 1990 set up, within the Prime Minister's office, a Committee for the support of child care institutions (CSIOC), which consists of representatives of the ministries and departments concerned, together with representatives of certain non-governmental organizations, and has as its objective the improvement of the conditions of care and education of protected children and the development of cooperation with the public-interest bodies and associations established in this field both in Romania and abroad. The setting up of CSIOC reflects article 20 of the Convention. With effect from 27 January 1992, it was decided, by Government decision, to create a Humanitarian Programme Coordination Committee for Romania.

23. Similarly, Government Decision No. 63 of 22 January 1991 established, as a government body, the Romanian Adoption Committee (CRA), whose aim is to contribute to the protection of minors through adoption and to implement international cooperation in matters of adoption. The establishment of the CRA reflects the provisions of articles 20 and 21 of the Convention.

24. In parallel with the national bodies, there are departmental directorates operating at the local level, together with other specialized agencies of the Ministries of Labour and Social Security, Health and Education and the State Secretariat for the Handicapped, etc. The local governments of the municipalities and communes have responsibilities as the tutelary authority for minors who find themselves in exceptional circumstances (whose parents are dead, have disappeared or are unknown): they take their statements and arrange for their protection on the basis of social enquiries which enable them to be placed in foster homes or in institutional care.

25. In October 1991, in the spirit of the conference held in Rome on 30 September 1991, which was organized by UNICEF and the Italian Committee for UNICEF in collaboration with the conference of mayors of the world's capitals known as Mayors for the Children, the Romanian National Committee for UNICEF launched a similar broad movement in Romania under the name Mayors - the Children's Friends and Protectors. So far, 86 mayors of municipalities and

communes, together with their councils, have joined the movement, and the total could exceed 120-150 in the future. A national meeting of mayors is being arranged for March or April 1993 to consider the measures taken at local administration level to implement the provisions of the Convention on the Rights of the Child. The adoption of a Mayors' Charter to cover their role as friends and protectors of children is being advocated.

26. Despite Romania's continuing difficulties associated with the transition to a market economy and the growing poverty in a context of economic instability and increasing unemployment, the implementation of the United Nations Convention on the Rights of the Child has become the priority concern at all levels of society. On 26 February 1992, the President of Romania himself invited a delegation from the Romanian National Committee for UNICEF to attend a briefing and participate in a joint examination of the progress made with the implementation, in Romania, of the Convention and the Declaration and Plan of Action signed in New York on 30 September 1990.

II. DEFINITION OF THE CHILD

27. The definition of the child in article 1 of the Convention can also be found in the Romanian legislation fixing the age of attainment of majority at 18 (article 8.2 of Decree No. 31/1954 concerning natural and artificial persons). It should be pointed out that, in Romanian law, the legal terms corresponding to "human being" and "child" in article 1 of the Convention are "person" and "minor" (and, less frequently, "child").

28. Decree No. 31/1954 concerning natural and artificial persons entered into force on 1 February 1954 (at the same time as the Family Code). It confers legal capacity of enjoyment on the child from birth, while stipulating that, as far as his rights are concerned, they will be recognized from conception "provided that he is born alive" (article 7).

29. Full legal capacity of exercise is granted at the age of 18. In the spirit of article 1 of the Convention, Decree No. 31/1954 also provides for an exception: "A minor who marries thereby acquires full legal capacity (article 8.3). The minimum ages for marriage are determined by the provisions of the Family Code, according to which "A man may marry only if he has reached the age of 18, whereas a woman may marry only if she has reached the age of 16". If there are good grounds, a woman may be permitted to marry at the age of 15. Only the competent bodies of the departmental prefectures can give the necessary approval and then "only if an opinion has been obtained from an official physician" (article 4 of the Family Code). It follows that a 16 year-old (or 15 year-old) female minor who marries acquires full legal capacity, in the same way as someone who attains the age of majority. The same decree confers on a minor who has reached the age of 14 a limited legal capacity, enabling him to perform certain juridical acts if he has "the prior consent of his parents or guardian" (article 9).

30. With respect to the conclusion of a contract of employment, the decree stipulates that a minor aged between 14 and 16 need not only the consent of his parents but also a medical certificate (article 10.2). On the basis of these provisions, the legal minimum age for concluding a contract of employment is 14. The Constitution has amended these provisions by introducing a direct prohibition. Thus, according to article 45.4: "Minors under the age of 15 may not be hired as employees". As a constitutional provision this clearly takes

precedence. This also follows from paragraph 1 of article 150 concerning the temporary conflict of laws which states: "Laws and all other enactments shall remain in force as long as they are not in conflict with the present Constitution."

31. To return to the limited legal capacity of minors who have attained the age of 14, Decree No. 31/1954 concerning natural persons provides for a second threshold by according minors who have reached the age of 16 the right to conclude a contract of employment without the consent of their parents or guardian" (article 10.1). Once employed, minors aged 16, like those aged 15, may themselves exercise the rights and duties deriving from the contract. The minor "shall have the right to dispose of the sums of money he earns himself" (article 10.3); and he may "without his parents' consent, deposit money in savings banks and dispose of that money."

32. The law does not require the consent of the parents in order for their children to marry, even though the minimum age is 16 or 15 as the case may be. In general, parents are anxious to prevent precocious sexual activity and take the view that the most appropriate age for marriage is over 18 for girls and 19-20 for boys. This is because compulsory general education (for a total of 10 years) releases the child from his educational obligations at about 16 or 17, after which most children go on to take courses lasting at least 1 or 2 years at a technical college or lycée. Moreover, for boys the age of 18 is also the age at which they become eligible for military service. Consequently, not many girls marry at the age of 18 and not many boys at less than 20.

33. If a minor 15 or 16 years old is to sign a contract of employment, he must have, in addition to the consent of his parents or guardian, a medical certificate. To obtain such a certificate, the child may visit a doctor, without necessarily being accompanied by his parents. Since there are no regulations that forbid it, a child may consult a doctor, even before the age of 14, without the parents' consent. He may make use of his right to free medical care by visiting the school medical centre or some medical practice within his local health district. Once the child is registered with a medical practice and has a medical file, he may consult the doctor without the parents' consent. If the doctor has any doubts about the illnesses from which the child says he is suffering or if he considers that further information would be useful, medical ethics may lead him to request the presence of the parents.

III. GENERAL PRINCIPLES

(a) Non-discrimination

34. In conformity with article 2.1 of the Convention, Romania has undertaken to respect and ensure the rights set forth in the Convention to each child without discrimination of any kind, irrespective of the child's or his or her parents' or legal guardian's race, colour, sex, language, religion, political or other opinion, ethnic or social origin, property, birth or other status.

35. The equality of all children as far as their rights are concerned is founded on the unitary and universal nature of the rights and fundamental freedoms guaranteed by the Romanian Constitution to "all its citizens, regardless of race, sex, opinion, political allegiance, wealth or social origin" (article 4). "Citizens are equal before the law and before public authorities,

with no privileges and no discrimination" (article 16). "Romanian citizenship cannot be taken away from anyone who acquired it at birth" (article 5).

36. The numerous instruments and legislative provisions mentioned below are intended to prevent and eliminate any discrimination among children, irrespective of their ethnic origin, family circumstances or other considerations. At the same time, in addition to prohibiting discrimination against children, the laws provide for special measures for their protection, in order that they may exercise their rights and freedoms and enjoy normal development, both physical and intellectual.

37. On 30 November 1992, Romania acceded to the European Convention on the legal status of children born out of wedlock.

(b) Best interests of the child

38. In the spirit of article 3.1 of the Convention, the precedence accorded to the interests of the child in the taking of any decision concerning his present circumstances or future is illustrated by the following provisions of the Family Code:

"The two parents shall have the same rights and the same duties with regard to their under-age children, irrespective of whether they were born in or out of wedlock or adopted. They shall exercise their parental rights solely in the interests of the children" (article 97);

"When there are disputes between the parents with regard to the exercise of their parental rights or the performance of their parental duties, the tutelary authority shall decide in conformity with the interests of the child, after having heard the parents" (article 99);

"If the parents do not cohabit and cannot agree on which of them is to give the child a permanent home, the court shall decide, in the light of the interests of the child" (article 100);

"The annulment of the marriage shall have no consequences for the children who shall retain the status of children born in wedlock" (article 23);

"A marriage contracted with disregard for the provisions concerning the legal age shall not be annulled if, in the meantime, the wife has given birth or has become pregnant" (article 20);

"In the event of divorce, in dissolving the marriage the court shall also decide which of the parents shall have custody of the under-age children. To this end, the court shall hear the parents and the tutelary authority and shall decide, for each child, taking the interests of the child into account, whether he or she should be entrusted to the mother or the father" (article 42.1);

"Where there are good grounds for so doing, the children may be entrusted to godparents or other persons or placed in institutional care" (article 42.2);

If the child is registered as having been born of unknown parents, the Family Code provides that he or she may always be recognized by his or her mother and/or father. "Recognition, even if testamentary, may not be revoked" (articles 48.3 and 57.3);

"An action to determine maternal filiation can lie only with the child" and "there shall be no limitation of the action during the life of the child" (article 52);

"An action to determine paternity lies with the child and may also be brought against the father's heirs" (article 59);

In the interests of the child, the law stipulates that: "If the mother has cohabited with the presumed father or if the father has supported the child, the period of one year shall run from the moment at which the cohabitation or support ceased" (article 60.3).

39. With regard to the duties of the parents towards the child, the Family Code states, again in the best interests of the child, that "they must rear the child and take care of its health and physical development, education, instruction and vocational training, in accordance with its abilities" (article 101). Financial support is provided by the State precisely in order that these aims may be realized.

40. Duties similar to those of the parents devolve upon the family or person in whose care a child is placed, so that he or she may be assured of "support and the other conditions necessary to his or her development and education". In order that these obligations may be fulfilled, the family or person in whose care a child is placed is "entitled to a child maintenance allowance, the amount of which shall be determined by the court."

41. The guardianship of a minor whose parents are dead or unknown or have been deprived of their parental rights, had their civil rights suspended or been declared dead is based on the same principle of the best interests of the child. Thus, in accordance with the Family Code, "guardianship shall be exercised solely in the interests of the minor" (article 114).

42. In accordance with Act No. 3/1970, protected minors are placed either in foster homes or in institutional care, the promotion of and respect for the interests of the child being subsequently monitored by special committees for the protection of minors organized at departmental prefecture level (article 12), as well as at the level of the central committee responsible for guiding and coordinating child protection activities, which operates within the framework of the Ministry of Labour and Social Security.

(c) <u>The right to life, survival and development</u>

43. In accordance with article 6.1 of the Convention, States parties recognize that every child has the inherent right to life. The Romanian Constitution contains express provisions stating that: "A person's right to life and to physical and mental well-being are guaranteed" (article 22.1). In conformity with this provision, the Ministry of Health and the Institute for the Protection of Mother and Child have drawn up recommendations concerning child care and assistance and the protection of the child's life. These recommendations relate to the frequency and nature of periodic medical examinations; the prevention of rickets; the circulation of average physical development standards for the child population of Romania; and standards governing the hiring of staff to provide care or teach in orphanages and similar institutions. To these must be added certain measures for the protection of the new-born child and its mother, which include: the mother's legal right to paid leave to care for the child up to its first birthday; and the permanent specialized medical assistance which must be

provided, free of charge, by the pediatricians of the health district in which the child lives.

44. As a corollary to the constitutional guarantee of the right to life, the Penal Code punishes homicide with 10 to 20 years' imprisonment (for murder), 15 to 20 years' imprisonment (for aggravated murder), and life or 15 to 20 years' imprisonment (for particularly serious murder). In each case attempt is penalized (Penal Code, articles 174-176). Involuntary manslaughter and battery leading to death are also punished (articles 178 and 183).

45. Homicide committed through negligence by a doctor or medical assistant during childbirth (where the victim is a child born live or viable) or in connection with a treatment or surgical operation is also covered by these provisions. In addition, the Penal Code punishes murder of the new-born child committed immediately after birth by a mother in a state of post-natal depression. Depending on the circumstances, the punishment varies from 2 to 7 years' imprisonment (article 177).

46. As regards orphans and abandoned children and those whose physical, moral or intellectual development or health are at risk in the family environment, the child protection committees can place them, as appropriate, in the care of one or other of the institutions cited in article 5 of Act No.3/1970: orphanages for children less than three years old, and children's homes for children of pre-school and school age. In the school year 1991-1992, there were 12,595 nursery schools in the country, attended by 43.8% of the total number of children of pre-school age.

47. It should also be noted that the State provides financial support for working parents, in the form of monthly allowances for the children and various benefits. Furthermore, the mother has the right to paid leave (an allowance equal to 65% of her salary) to take care of her child up to its first birthday, together with the right to special leave and assistance from State social security funds to care for a sick child up to the age of three. Another form of support is the mother's right to have her contract of employment suspended until the child starts going to school at the age of 6 or 7, these years continuing to count as qualifying years for the calculation of her pension entitlement, for example. The State also provides various services such as day nurseries and kindergartens with a more restricted schedule.

(d) Respect for the views of the child

48. The spirit of article 12.1 of the Convention is reflected in the freedom of conscience and freedom of expression accorded by the Romanian Constitution to all citizens, without any limit with respect to age. Freedom of conscience is expressly guaranteed: "No one can be forced to adopt an opinion or to espouse a religious belief contrary to his convictions" (article 29.1) and "the freedom to express ideas, opinions and beliefs and the freedom of creation of any kind ... shall be inviolable" (article 30.1), while at the end of article 45 of the Constitution it is stated that "Public authorities must help to ensure conditions for the free participation of youth in the political, social, economic, cultural and sporting life of the country". Youth must, of course, include young people who, though not yet 18, already have the necessary discernment, education and experience to formulate and express views and opinions.

49. A general analysis of the Romanian legislation reveals that the age of 16 is regarded as the threshold beyond which the minor is aware of the consequences of his actions and choices. "A minor who has reached the age of 16 may enter into a contract of employment or join an agricultural association or other cooperative organization without having to obtain the consent of his parents or guardian" (Decree No. 31/1954, article 10.1). Similarly: "After the child reaches the age of 14, at its request, the tutelary authority may allow it to change the type of education or the vocational training decided upon by its parents or to have the domicile necessary for it to complete its training or vocational preparation" (Family Code, article 102).

50. With regard to current problems, the family, the schools and society generally accept the child's right to express its views and preferences. The tendency of the majority to encourage and stimulate the child's freedom of opinion is doubtless linked to changes in family mentality. Thus, especially among young parents, it is possible to observe greater sensitivity to the child's opinions and choices than was previously the case.

51. In the event of criminal proceedings, where a minor more than 14 years old has committed and is charged with an offence, the proceedings take place in his presence, in a separate private session. The parents, the guardian or curator, the tutelary authority and the counsel for the parties may attend, with the approval of the court. If the court considers that the proceedings may have an adverse effect on a defendant who is a minor less than 16 years old, it may have him removed from the courtroom, but not before he has been heard (Code of Criminal Procedure, articles 484-486).

IV. CIVIL RIGHTS AND FREEDOMS

52. Taking into consideration the various constitutional requirements and priorities relating to the rights of the child, during infancy the rights and fundamental freedoms guaranteed to all citizens by the Romanian Constitution may be exercised as follows:

(a) Civil rights

- Irrespective of age, but only to the extent that their exercise does not involve the performance of juridical acts;

- After the age of 14, by the performance of juridical acts, but only with the prior consent of the parents or guardian;

- Without the parents' consent in the case of a female minor aged 16 (or 15) who, as a consequence of marriage, has acquired full legal capacity, and in the case of minors aged 15 with regard to the rights, duties and income deriving from a contract of employment (entered into with the consent of the parents);

- After the age of 16, on completion of his or her compulsory studies, a minor may choose either to continue his or her education or to seek employment, without having to obtain the parents' consent.

(b) Political rights

- Citizens who are 18 years of age or older on election day have the right to vote;

• The law does not prescribe a specific age for exercising the right of freedom of assembly and participating in meetings and demonstrations;

• The right to associate may be exercised freely, age limits usually being laid down in the rules of each association, provided that the law relating to the formation and registration of associations is respected.

A. Name and nationality

53. The right to a name is established by Decree No. 31/1954 concerning natural and artificial persons as a right inherent in the person: "Every one shall have the right to his own name, established or acquired in accordance with the law. The name shall comprise the surname and the first name" (article 12). The procedure for determining and acquiring a name is governed by a special law (Decree No. 975/1968 concerning the name), in accordance with the following principles:

• The surname is acquired through affiliation; the first name is determined on the basis of the declaration made by whoever declares the birth to the registry office;

• Foundlings, whose parents are unknown, acquire a first name and (some) surname by a decision of the local authority of the district in which they are found (article 2).

54. Parentage is established in accordance with the provisions of the Family Code: "Maternal filiation results from the fact of birth. It is proved by the birth certificate" (article 47). As regards paternal filiation, the Family Code provides that "the child born in wedlock has as his father the husband of his mother (article 53.1). "A child born of the marriage shall bear the common name of his parents. If they do not have a common surname, the child shall bear the name of one of them or their names combined" (article 62).

55. "A child born after the dissolution or annulment of the marriage shall have as its father the former husband of his mother, if it was conceived during the marriage and if it was born before the mother remarried" (article 53.2). In this latter situation, where the mother has remarried, the child shall have as its father the mother's current husband (article 53.1). The latter may, nevertheless, dispute paternity (article 54).

56. "A child born out of wedlock acquires the surname of the parent with respect to whom filiation is established in the first instance" (article 64.1). If the child is simultaneously recognized by both parents, then (by virtue of article 64.3) the rule laid down for a child whose parents do not have a common surname shall apply: the child will bear the name agreed upon by the parents, i.e. either the name of one of them or their names combined (article 62.2). If the name of the child has been established by virtue of descent from one of the parents and, subsequently, filiation is also established with respect to the other, "the court may approve the child's bearing the name of the latter" (article 64.2).

57. By virtue of adoption, the adopted child acquires the name of the adopter. If the child is adopted by a couple without a common surname, the couple must declare the name which the adopted child will bear" (article 78). "In the event of the adoption being annulled, the adopted child shall take back its former

surname; if there are good grounds, the court may approve the child's continuing to bear the surname acquired by adoption" (article 83).

58. The right to citizenship is established by Act No. 21 of 1 March 1991. Romanian citizenship is acquired by birth in the case of a child, born on Romanian territory or abroad, one or both of whose parents are Romanian citizens. A foundling found on Romanian territory is, ipso facto, a Romanian citizen if neither of its parents is known (article 5).

59. Under-age children of foreign or stateless parents who have been granted Romanian citizenship acquire Romanian citizenship at the same time as their parents. If just one of the parents acquires Romanian citizenship, it is the parents who decide the citizenship of the child. If they cannot agree, then the court of the child's domicile, taking into account his interests and, if he is over 14, with his consent, shall take the decision (article 10).

60. In short, any child born or found on Romanian territory has the right to a name and citizenship. A child born in Romania will be stateless only if its parents are stateless. However, if they acquire Romanian citizenship, then, on request, under the conditions laid down by the law, the child too will acquire citizenship, at the same time as his parents.

61. The provisions of the Family Code guarantee to every child the right to know his parents and, as far as possible, to be brought up by them. There is no limitation on the action to determine maternal filiation during the life of the child and an action may even be brought against the heirs of the presumed mother (article 52). An action to determine paternal filiation can also be brought against the heirs of the presumed father (article 59). The limitation period is one year from the date of birth of the child, or from the date on which the presumed father ceased to fulfil his obligations to support the child (article 60).

62. The fact that, under the law, the child's domicile is that of its parents (article 100 of the Family Code) means that, in the vast majority of cases, the child is brought up directly by the parents who thus take care of its health and development, schooling and vocational training (article 101).

B. Preservation of identity

63. In ratifying the Convention, the Romanian State undertook to respect the right of the child to preserve his or her citizenship, name and family relations, as recognized by law without unlawful interference (article 8). Guarantees to this effect are given in the Constitution. Thus, "Romanian citizenship cannot be taken away from anyone who acquired it at birth" (article 5.2). The recognition of the right of the child to his or her identity, through the preservation of citizenship, is also ensured by the express stipulations of Act No. 21/1991, according to which if one or both of the parents lose their citizenship that of the children will not be affected (article 26).

64. With regard to the right of the child to preserve his family relations, in special situations, the Family Code states that the court must hear a child more than 10 years old where it is a question of giving custody of the child to one of the parents in the event of a divorce (article 42); the divorced parent who has not been awarded custody of the child has the right to maintain personal links with that child (article 43); if an adoption is annulled, the minor has

the right to revert to his former civil status and to re-establish family relations with his natural parents (article 85); a parent deprived of his or her parental rights may maintain personal relations with the child, with the sole exception of circumstances in which, because of these relations, the education and development of the child would be put at risk (article 111).

C. Freedom of expression and access to information

65. According to article 13.1 of the Convention, the right of the child to freedom of expression "shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice". The Romanian Constitution states that "The freedom to express ideas, opinions and beliefs, and the freedom of creation of any kind - orally, in writing, through images, by means of sound, or by any other means of communication" shall be guaranteed as "inviolable rights" (article 30.1). Moreover, "censorship of any kind shall be prohibited" (article 30.2).

66. For the purpose of guaranteeing the child freedom of expression, article 12.2 of the Convention requires that the child be provided with "the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law". This requirement is also to be found in the provisions of the Romanian legislation now in force.

67. The divorce procedure requires that, if there are under-age children, the court shall decide who is to have custody of them. "To this end, the court shall hear the parents and the tutelary authority and, taking into account the interests of the children, shall decide, for each of them, whether he or she shall be given into the custody of the father or the mother" (Family Code, article 42). At the request of one or other of the parents or of a child more than 14 years old, the tutelary authority may modify the measures relating to the mutual personal or patrimonial rights and duties of the divorced parents and the children. "A child more than 10 years old shall be heard" (idem, article 44).

68. For an adoption to take place, the Family Code requires the consent of the person adopting, the parents of the adopted minor, and "the consent of the child adopted, if he or she is more than 10 years old" (article 70). A minor who considers that the actions or conduct of the guardian are doing him or her harm may complain to the tutelary authority (article 118).

69. A child placed in institutional care also has the right to address requests or complaints to the committee for the protection of minors, which must consider them and take the appropriate measures as required by law, in the interests of the protection and development of the child (Act No. 3/1970, article 12(b)). Where the minor is more than 14 years old, the court must ask for his or her opinion in the following cases: before deciding the question of citizenship following adoption (when only one of the adoptive parents is a Romanian citizen and if the two adoptive parents cannot agree on the citizenship of the adopted child); when the parents re-acquire Romanian citizenship as a result of repatriation (if they cannot agree on the citizenship of their under-age child); when only one of the parents acquires Romanian citizenship on request, the other remaining a foreign citizen or stateless person (again if they cannot agree on the citizenship of the child). In all these situations, the

court must take into account the interests of the minor and obtain his consent, if he is more than 14 years old (Act No. 21/1991, articles 6, 8, and 10).

70. The Constitution also states that "The citizen's right to have access to any information of public interest cannot be curtailed" (article 31.1). The exercise of these rights and freedoms by any citizen irrespective of age (including children) is based on artilce 16 of the Constitution which establishes the principle of the equality of all citizens before the law and before public authorities "with no privileges and no discrimination" (article 16.1). The provisions of article 31.3 are of special significance: "The right to information must not jeopardize measures to protect the young or national security".

D. Freedom of thought, conscience and religion

71. Because the Romanian Constitution deals with this fundamental human freedom within the same context as freedom of opinion, it has already been necessary to cite the terms of article 29.1, according to which: "Freedom of thought and opinion and freedom of religion may not be restricted in any way. No one can be forced to adopt an opinion or to espouse a religious belief contrary to his convictions". These provisions apply to every citizen of the country, including children.

72. Similarly, in accordance with article 14.2 of the Convention, the rights and duties of the parents and, when applicable, legal guardians to provide direction to the child in the exercise of his or her right to freedom of thought, conscience and religion, in a manner consistent with the evolving capacities of the child, are respected. General guarantees to this effect are given in the following paragraphs of article 29 of the Constitution:

> "2. Freedom of conscience is guaranteed; it must be expressed in a spirit of tolerance and mutual respect.
>
> ...
>
> 6. Parents and guardians have the right to ensure, in accordance with their own convictions, the education of under-age children for whom they are responsible."

73. These two texts must be interpreted as protecting the child's freedom of conscience whenever, having the necessary age and capacity, he or she adopts convictions or a religious belief different from those of the parents. A conscious preference, expressed by the child, must be treated with due tolerance and respect.

74. The State recognizes and guarantees, for members of the national minorities, "the right to preserve, develop and express their ethnic, cultural, linguistic and religious identity" (Romanian Constitution, article 6.1). It is also stated that "the protective measures taken by the State to preserve, develop and express the identity of members of the national minorities shall conform to the principles of equality and non-discrimination in relation to other Romanian citizens" (idem, article 6.2).

E. Freedom of association and of peaceful assembly

75. In accordance with article 15.1 of the Convention, the Romanian Constitution guarantees to all citizens both the right of free association (article 37) and freedom of assembly (article 36). As regards the possibility of children exercising these rights, the public authorities must "help to ensure the necessary conditions for the free participation of youth in the political, social, economic, cultural and sporting life of the country" (article 45.5). According to their age and capacity, children are encouraged to create their own forms of cultural, artistic and sporting association.

76. At present, an ingenious and original programme launched by the Romanian National Committee for UNICEF, which is receiving a great response from children and young people as well as adults, is under way in certain communities which have nominated their mayor as a "friend and protector of the children" or have set up "youth councils". The latter are chosen from among children and adolescents aged between 12 and 18 living in the community and have the same number of members as the adult council of the commune or municipality, with which they cooperate closely. The "youth council" expresses the views of the children and youth on various aspects of their life and problems, makes suggestions to the mayor and sometimes participates in regular council meetings when questions that concern it are being discussed. This is both a practice that respects the spirit of the Convention and an excellent means of involving children and youth in local government, a true social and civic apprenticeship.

F. Protection of privacy

77. Article 16.1 of the Convention states that no child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence. In Romania, the child already enjoys these rights, which are guaranteed equally to all citizens by the Constitution. Thus, article 26.1 requires public authorities to respect and protect private and family life.

78. Article 16.2 of the Convention states that the child has the right to the protection of the law against such interference or unlawful attacks on his or her honour and reputation. In this connection, the Constitution provides for the right to appeal against unlawful arrest or search, and the right to bring before the authorities instances of violation of the home or the confidentially of correspondence or telephone conversations. The minor may lodge such complaints from the age of 14, when he acquires limited capacity. In the case of children less than 14 years old, the complaint will be lodged by their parents or guardian, as appropriate.

G. The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment

79. The Romanian Constitution includes guarantees to this effect, in accordance with article 37(a) of the Convention. Thus, article 22.1 of the Constitution guarantees a person's right to life and to physical and mental well-being, and the article continues: "2. No one shall be subjected to torture or to any kind of inhuman or degrading punishment or treatment. 3. Capital punishment is prohibited".

80. The definition of the offence of torture (Penal Code, article 267) corresponds exactly to that in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The penalties are

severe and graduated according to the seriousness of the consequences (from 2 to 10 years in prison, or up to 10 to 20 years in prison or life imprisonment if the torture has led to the death of the victim). Torture committed by "an agent of public authority" or "any other person with an official title or at the instigation or with the consent of such persons" is also punished.

81. The death penalty was in force up to the beginning of 1990. It was abolished by Decree-Law No. 6 of 7 January 1990 and replaced by life imprisonment. Act No. 7/1991 ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the Abolition of the Death Penalty. The provision of the Romanian Constitution which prohibits capital punishment cannot be amended because it is the guarantee of a fundamental human right (article 148.2 of the Constitution).

82. Considering that inhuman or degrading treatment does not necessarily fulfil all the conditions of the offence of torture, it is worth noting that the Penal Code cites and punishes the following: "the maltreatment of a person who is being held or detained or is subject to a security or educative measure" (article 267); abusive investigation involving "threatening or using violence against a person during the course of criminal investigation or trial for the purpose of obtaining a declaration" (article 266).

83. Thus, these provisions also apply when a minor, who has been detained, arrested or sent by court decision to a special school for rehabilitation, is subjected to violent, inhuman or degrading treatment. The Penal Code does not provide for specific penalties where the victim is a child, but it may be assumed that the judge will take the fact into consideration in meting out punishment to anyone guilty of maltreating or torturing a minor.

84. After the Revolution, respect for human dignity was made one of the general principles that govern the entire penal process. Thus, Act No. 32/1990 introduced into the Criminal Procedure Code article 51 which states: "Any person who is the subject of criminal proceedings or brought to trial must be treated with respect for human dignity. The subjection of such a person to torture or cruel, inhuman or degrading treatment shall be punishable by law". The provision also applies to minors, irrespective of whether they are the subject of an investigation or trial, under arrest or at liberty.

85. The criminal liability of the minor depends on his or her age at the time the offence was committed and on whether he or she was able to exercise discretion (with respect to the performance of the act regarded as an offence under the law). According to the Romanian Penal Code: "A minor under 14 years of age is not criminally liable. A minor between 14 and 16 years of age is criminally liable only if it is proved that he wittingly committed the offence. From the age of 16 the minor is criminally liable" (article 99).

V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

(a) Parental guidance

86. In conformity with article 5 of the Convention on the Rights of the Child, the Romanian Constitution includes a number of provisions essential to the protection of the interests of the child and parental rights. Thus, it is stipulated that: "The family shall be based on a marriage which is freely consented to by the spouses, on their equality and on the right and duty of

parents to rear, educate and instruct their children" (article 44.1); "children born out of wedlock are equal before the law to those born in wedlock" (article 44.3); "parents or guardians have the right to ensure, in accordance with their own convictions, the education of under-age children for whom they are responsible (article 29.6).

87. The responsibility of the parents or guardians to provide the child with the necessary general guidance in the exercise of his or her rights is not expressly mentioned. However, it follows from all the texts referring to the obligation to give precedence to the interests of the child. This undoubtedly includes the child's interest in knowing his rights, which implies an obligation upon the parents, guardians, teachers and child care institutions to explain to the child, with due allowance for his age and ability to understand, what his rights are and how he can exercise them. This is also the idea behind the introduction of information about the Convention into the "civic education" programme and teaching courses, starting from the school year 1991-1992. Numerous similar initiatives have been taken with a view to involving the parents (such as the "parents' university" started up by Save the Children - Timisoara) and non-governmental institutions and organizations. For example, on 29 September 1992, the Bucharest Institute of the Child and the Family, which operates under the aegis of Medicus Mundi, organized an excellent seminar on "the family in question, questions on the family". The Institute is active in Romania and is making a noteworthy contribution to the devising, discussion and dissemination of family policies in the Eastern European countries in transition.

88. At present, with the support of UNICEF's Bucharest office and in collaboration with the Romanian National Committee for UNICEF and other governmental and non-governmental partners, the situation of women and children in Romania is being analyzed with the object of providing the basis for better-structured Romanian family policies and strategies over the next few years (1993-1994).

(b) Parental responsibilities (article 18.1 of the Convention)

89. Apart from the fundamental equality between the parents as regards their rights and duties with respect to the children, established by article 44.1 of the Constitution, there is a series of detailed provisions in the Family Code. For example, "the two parents have the same rights and duties with respect to their children, no matter whether the children were born in or out of wedlock or adopted. They shall exercise their parental rights solely in the interests of the children" (Family Code, article 97). "The parents shall together take the measures concerning the person and property of the child" (article 98). The parents must look after their child: "They must rear the child and take care of its health and physical development, education, instruction and vocational training, in accordance with its abilities" (article 101). "The under-age child shall be supported by its parents. If the child has its own income, which is insufficient, the parents must ensure the conditions necessary for its upbringing, education, instruction and vocational training" (article 107).

90. According to the Family Code: "The tutelary authority must effectively and continuously monitor the way in which the parents perform their duties with respect to the person and property of the child". Representatives of the tutelary authority have the right to visit the child at home and to find out, by any means, how it is being cared for, in relation to its health and physical development, education, instruction and vocational training.

91. Among the functions of the tutelary authority it is worth noting the following: obtaining a ruling from the courts on the question of the deprivation of parental rights if it is found that the exercise of those rights may be prejudicial to the health, development or education of the child (Family Code, article 109); finding a guardian for the child if both parents are dead or unknown, have been deprived of their parental rights, have had their civil rights suspended, have disappeared or have been declared dead (articles 113 and 116); effectively and continuously monitoring the way in which the guardian performs his duties with respect to the person and property of the child (article 136); investigating and settling complaints lodged by the minor or other persons close to the minor, or by the managers or tenants of the building in which the child lives, concerning behaviour of the guardian prejudicial to the child (article 138.1).

(c) Separation from parents

92. According to article 9 of the Convention, States shall ensure that no child is separated from his or her parents against their will, except when competent authorities determine, in accordance with the law, that such separation is necessary for the best interests of the child.

93. In this context, it is worth citing the following: the right of the child to live with his or her parents or, subject to their agreement, in the home of one of them, if they do not cohabit (Family Code, article 100); the right of a child who has reached the age of 10 to be heard by the court before a decision is taken to give him or her into the custody of one or other of the separated or divorced parents (idem, articles 100.3 and 42.1); the right of the parents to demand the return of the child from anyone holding him or her without having the right to do so (idem, article 103.1).

94. At the request of the tutelary authority, on the basis of article 109 of the Family Code, the court may deprive the parent of his or her parental rights if the health or physical development of the child is threatened by his or her manner of exercising the parental rights, abusive behaviour or serious neglect of the parental duties, or if the education, instruction and vocational training of the child are not being imparted in a spirit of devotion to Romania. The parents and the tutelary authority must both be directed to appear (Family Code, article 109).

95. With respect to article 9.2 of the Convention, Romanian law establishes the right of all the interested parties to participate in the proceedings and make known their views on the separation of the minor from his or her parents. Where the court has been asked to deprive the parents of their rights, both the parents and the tutelary authority must be directed to appear (Family Code, article 109.2).

96. With regard to article 9.3 of the Convention, there are express provisions which guarantee the right of the child to maintain personal relations and direct contact with both parents, if he is separated from them, or just one of them, except if it is contrary to the child's best interests. According to the Family Code: "The tutelary authority shall permit a parent deprived of his or her parental rights to maintain personal relations with the child, except if such relations threaten the development, education, instruction or vocational training of the child" (article 111).

97. Furthermore, the Code provides that "The court shall restore to the parent deprived of his or her parental rights the exercise of those rights if the circumstances which led to the deprivation of rights no longer exist, so that restoring the rights poses no threat to the development, education, instruction, vocational training or patrimonial interests of the child" (article 112).

(d) Family reunification

98. Article 20.1 of the Convention calls for special protection and assistance to be provided by the State for a child temporarily or permanently deprived of his or her family environment or who, in his or her own best interests, cannot be allowed to remain in that environment. In Romania, the protection of children in such circumstances is governed by Act No. 3 of 28 March 1970 which provides for alternative care consisting of foster placement or the possibility of entrusting the child to a person, family or child care institution, under exceptional supervision, or, as appropriate, in a special school for rehabilitation. Thus, the provisions of national law meet the requirements of articles 20.2 and 20.3 of the Convention with regard to the ensuring of alternative care.

99. Foster placement is arranged, with the consent of the parents or guardian of the child, by the tutelary authority. If it has not been possible to take this particular protective measure, or if the taking of a protective measure is made necessary by the fact that the physical, moral or intellectual development of the child is at risk within the family environment, the child's situation will be examined by the committee for the protection of minors (there is one of these committees in each departmental prefecture). The committee is chaired by the Secretary of the prefecture and composed of representatives of the departmental directorates and inspectorates for social security, education, public health, etc., together with two parents known to take exceptional care of their children. The committee hears the parents or guardian, anyone able to provide information on the case, and the minor involved, if he has reached the age of 10. Following these discussions, the committee may place the child with a family or individual, with the consent of the latter.

100. The family or individual who gives a child a foster home is entitled to child support. These payments are also made in the second instance, where a child is entrusted to a family or individual to be reared and educated.

(e) Situation of children placed in institutional care

101. In recent years, much attention has been given to the task of improving the situation of children placed in institutional care. Here, a number of measures taken by the government have played an important part: the Decree-Law No. 138/1990 and Government Decision No. 484/1990 increased the food allocation for children in institutional care and established new staffing standards:

- doctors: 1 per 40 children per working shift;
- mid-level medical staff: 1 per 20 children per working shift;
- teachers: 1 per 20 children (as compared with 1 per 150 previously);
- number of children in special-unit groups reduced to 12, as compared with 20-25 previously.

102. As a result of the measures taken, over the last few years the trend in infant mortality (per 1000 children) in institutions of this type has been as follows:

1989	1990	1991
26.9	26.9	22.7

103. There are still difficulties, both objective and subjective. For example: the brief reporting period (two years); Romania's economic situation, which is still very critical; and the slow change in the public's attitude towards the disadvantaged and handicapped, including children, an attitude also to be found among the staff of the units.

104. Another serious obstacle to the implementation of the measures taken is the shortcomings of the social security system, whose services were not used during the last ten years of the communist regime because it was considered wasteful and ineffective. The social security network is being reorganized, a process which will take several years. Specialists are being trained in three of the country's universities, at Bucharest, Cluj-Napoca and Iassy. The students are already in their third year. Pending the completion of their studies, the Committee for the support of child care institutions (CSIOC), with the assistance of the non-governmental organizations, is encouraging the training of auxiliary social workers chosen from among the existing staff of the institutions. CSIOC is promoting the recognition of their qualifications and the usefulness of their work in the units.

105. The still considerable number of children in institutional care - 91,800 - is a cause for particular concern. During the period 1990-1992 the trend in the number of Romanian children in institutional care was as follows:

1990

- 12,000 in institutions for children aged from 0 to 3 years (orphanages);
- 32,000 in institutions for children aged from 3 to 18 years (homes for pre-school and school-age children);
- 56,000 in units for children with various types and degrees of disability.

Total: 100,000.

1991

- 6,500 in institutions for children aged from 0 to 3 years (orphanages);
- 30,000 in institutions for children aged from 3 to 18 years (homes for pre-school and school-age children);
- 55,500 in units for children with various types and degrees of disability.

Total: 92,000.

1992

- 8,500 in institutions for children aged from 0 to 3 years (orphanages);
- 29,000 in institutions for children aged from 3 to 18 years (homes for pre-school and school-age children);
- 54,300 in units for children with various types and degrees of disability.

Total: 91,800.

106. It should be noted that the figures for 1990 are only estimates, whereas those for 1991 and 1992 are exact.

107. At present, there are in Romania: 60 orphanages; 177 homes for children of pre-school and school age; and 252 units for handicapped children, including 26 homes for the severely handicapped.

(f) Future measures

108. Among the future measures designed to ensure optimum conditions for the rearing and development of children in institutional care, which are to be coordinated by CSIOC, in collaboration with other bodies, ministries and non-governmental organizations, the following deserve particular mention: the publicity campaign to recruit teachers and nurses for the orphanages, following Government Decision No. 484/1990 which improved staffing ratios; the distribution of foreign aid; measures to broaden the horizon and expand the range of social contacts of the children placed in institutional care (free admission to puppet theatres, holidays in monasteries, holidays paid for by foreign organizations); collaboration with the tutelary authority at local government level and with the registry office to speed up clarification of the legal status of children placed in institutional care, which will open the way to alternative care in a family environment (reintegration with the biological family, foster placement, adoption); canvassing for and/or accepting programmes to be implemented in collaboration with non-governmental organizations, domestic or foreign, for example: assessment of the situation of children in institutions (League of Mental Health and Medicus Mundi); training of nurses (Danish Red Cross, French Red Cross, Ministry of Health, Ministry of Education); training of social security personnel (HOLT); training of specialists in problems of alternative care (Defense for Children International Movement, ISS, PACT, UNICEF, CRA).

109. According to an expert from the Commission of the European Communities, "The life of the children in institutional care is one of the areas in which the most obvious improvements have been recorded in Romania during the last two years".

(g) Adoption

110. Romania is one of the States to have recognized and permitted adoption in the best interests of the child, in accordance with the provisions of paragraphs (a) to (e) of article 21 of the Convention.

111. Up to 1990, when certain provisions of the law on adoption were amended, the tutelary authority was responsible for approving adoption. Act No. 11 of 31 July 1990 transferred the approval of adoption into the hands of the

courts. The latter must verify that the conditions of article 21(a) of the Convention have been fulfilled and establish, in accordance with the law and on the basis of reliable information, taking into consideration the situation of the child in relation to its parents and legal representatives, whether those whose agreement is required by law have consented to the adoption with full knowledge of the facts.

112. The court ensures that adoption does not take place in circumstances in which it is prohibited by law: adoption between brothers (Family Code, article 67); adoption by persons who are not legally qualified to act as a guardian and are not at least 18 years older than the child they wish to adopt, except where there are good grounds for disregarding the difference in age (idem, article 68); adoption by several persons, at the same time or successively, unless they be married (idem, article 69.1). If only one of the spouses adopts, the court shall ensure that the case file includes a declaration of acceptance by the other spouse, except where he or she has had his or her civil rights suspended, has been deprived of parental rights over his or her own children or is incapable of expressing his or her own wishes (article 69.2).

113. Providing that all the other legal requirements have been met, adoption may be authorized only if the court, on the basis of the information and opinions obtained, finds that "the person adopting can ensure the normal physical and moral development of the child adopted, and that the adoption is not for the purpose of exploiting the child or for other purposes contrary to the law or the rules of social cohabitation" (Family Code, article 76).

114. In permitting inter-country adoption, Romanian law did not originally recognize its secondary nature, as a means of ensuring the necessary care of a child that cannot be placed with a Romanian family to be reared and educated in a suitable fashion. Considering that during 1990 this situation led to the receipt of a large number of adoption applications from foreigners, most of which were approved, Act No. 11/1990 was supplemented and republished in 1991 to restrict the category of children that can be adopted by foreigners or Romanian citizens domiciled or resident abroad, by giving priority in matters of adoption to Romanian citizens domiciled in Romania and thus bringing the law into harmony with the provisions of article 21(b) of the Convention.

115. As distinct from the case of adoption by a Romanian citizen domiciled in Romania (in this case the local civil court is competent to authorize the adoption), inter-country adoption can only be authorized by the court of the department in which the child has its domicile. Moreover, the court may approve an inter-country application for the adoption of a Romanian child only if the application is accepted by the Romanian Adoption Committee and if there is no application for adoption from a Romanian citizen domiciled in Romania.

116. Set up in 1991, the Romanian Adoption Committee (CRA), working in collaboration with similar foreign bodies, has the task of ensuring the observance of standards and safeguards with respect to the care appropriate for an adopted child equivalent to those existing under Romanian law, following the child's departure from Romania; the Committee must also make sure that the adoption does not lead to financial gain and has no other consequences contrary to the best interests of the child, in accordance with the provisions of article 21(c)-(d) of the Convention.

117. The Romanian Adoption Committee acts to separate children from their parents, when the interests of the child so require, and tries to find them an

adoptive family, except in those cases in which, as a temporary solution, foster placement may seem best. For the child, the best solution of all is for it to remain in its biological family. This is the reason for insisting that the links between children placed in institutional care and their families are maintained. Unfortunately, in Romania there is not a well established social security network, and the creation of such a network presents practical difficulties. Setting up a network will require a few years in which to train new professionals in the universities and post-lycée colleges and to create the necessary structures.

118. The Romanian Adoption Committee is endeavouring to find adoptive families for children deprived of their family environment. National adoption is receiving priority. To this end, in July 1991 amendments were made to Act No. 11/1990. Romanian families can adopt children placed in institutional care, as well as through the agency of the Romanian Adoption Committee. In 1991, the civil courts authorized 1404 national adoptions. As regards inter-country adoptions, since it was set up in 1991 the CRA has authorized 740 such adoptions.

119. The CRA works only with foreign adoption agencies approved by the respective States and by the Committee on the Rights of the Child, on the basis of replies to the questionnaire drawn up by the Committee and well established selection criteria. These working agreements have been concluded precisely in the best interests of the child, so that a child concerned by inter-country adoption can be monitored in its adoptive family for a period of two years after adoption in Romania.

120. The CRA receives information on the development of the child from the agency's social workers for a period of 24 months following adoption. If the adoption does not work out, the CRA is consulted to enable it to take, together with the corresponding organization, the most appropriate decision in the interests of the child. Unfortunately, in the child care institutions there are many abandoned children who have not been visited by their parents for a very long time and are not adoptable under the legislation in force, which is deficient in this respect.

121. During the training seminar organized by CSIOC and the Romanian Adoption Committee, with the support of the International Social Service (ISS) and the Defense for Children International Movement, and held in Bucharest in June 1991, it was agreed that inter-country adoption should be considered only if an acceptable solution cannot be found in the child's country of origin. Furthermore, for two years a special committee of the The Hague Conference on Private International Law has been working on a Convention on international cooperation and protection of children in respect of inter-country adoption. This Convention will be adopted in 1993. Romania is actively participating in the preparatory work through the presence of representatives of the Ministry of Justice and the Romanian Adoption Committee.

122. In September 1992, the Ministry of Justice and the Romanian Adoption Committee placed before Parliament a bill concerning the legal declaration of abandonment, which provides for the possibility of declaring abandoned a child placed in a State institution for social or medical care, in a private child care institution or with a natural person, in conformity with the law, if the parents have clearly taken no interest in the child for more than a year. The bill defines the notion of "abandonment" by taking the words "taken no interest" to mean that all links between the parents and the child which might demonstrate

the existence of normal parental feelings have been broken. This obliges the institutions to keep a strict record of visits and other evidence of the existence of such links between parents and child.

123. The declaration of abandonment by a final decision of the court would have the effect of transferring the parental rights and duties to the social or medical institution, the private institution or the natural person to whom the child has been entrusted, as the case may be. The move has received support from the Romanian National Committee for UNICEF which has sent a memorandum to the offices of both chambers - the Senate and the Chamber of Deputies - with a view to getting the bill adopted by Parliament under the priority procedure.

(h) Transfer to other countries and return

124. In accordance with the provisions of article 11 of the Convention, Romania gives everyone, including children, the right to free movement within the country and abroad. Similarly, every citizen is assured of the right freely to establish his domicile or residence, to emigrate and to return to his own country (article 25 of the Constitution).

VI. BASIC HEALTH AND WELFARE

125. The health of children and adolescents was seriously affected by the last 25 years of totalitarian domination, characterized by a demographic policy designed to impose a high birth rate by arbitrary and inhuman means. The implementation of this closely controlled programme was accompanied by high rates of infant and maternal mortality and by a discriminatory attitude towards certain categories of children. Following the Revolution, arresting this trend and achieving a rapid and substantial improvement in the general state of health of mother and child became priority concerns.

126. To this end, the Ministry of Health, through the General Directorate for the support of mothers, children and adolescents, devised and implemented programmes and adopted measures to ensure the survival and development of the child. In addition to supplying a number of medical and care units with the necessary equipment, project RO-3409, which received assistance from the World Bank, arranged advanced training courses for staff working in various specific areas of child health. The programme also included the setting up of 550 rural dispensaries. It is also intended to provide 40 departmental maternity clinics and 10 university obstetrics and gynaecology clinics with modern technologies and advanced training programmes, to turn them into model units.

127. The following priority strategies have been adopted: abandonment of the high birth rate policy; liberalization of abortion and the creation of an organizational basis for family planning; nutrition monitoring programmes for children up to the age of three, with a view to the prevention of nutritional disorders and the timely application of remedial measures; training of professionals with a dual role (as teachers and child welfare specialists) and implementation of training programmes for nurses; organization of services, sex education and lessons in hygiene for adolescents (family life, family planning, child care, etc.).

128. As a result of this series of measures, in 1990 and 1991 definite improvements in maternal and infant mortality trends were recorded as compared with 1989:

	1989	1990	1991
Maternal mortality (number of deaths per 1,000 live births)			
Total	1.69	0.83	0.66
Due to high obstetric risk	0.22	0.26	0.25
Due to abortion	1.47	0.57	0.41
Infant mortality (number of deaths per 1,000 live births)	29.3	26.9	22.7

129. At the same time, a considerable effort has been made to amend certain regulations and to improve the relevant legislation. These measures include: the adoption of Decree-Law No. 31/1990 concerning the care of children up to the age of one (a new right granted to working mothers, in addition to maternity leave and leave to take care of a sick child); the adoption of Act No. 6/1992 concerning annual leave (unpaid leave is now available for caring for a sick child over the age of three and for medical treatment abroad, both the mother and father being eligible for this leave); the adoption of Ministry of Health Order 912/1992 concerning the institution of a system of notification of HIV (human immunodeficiency virus) infection, and of Order No. 1201 of 16 October 1990 concerning epidemiological monitoring, the prevention of HIV infection and medical assistance for those infected.

130. In view of the development and spread of HIV infection among children, in March 1992 a national anti-AIDS programme was adopted, in collaboration with the anti-AIDS and Doris-Bucharest, Speranta-Constanta, Esculap-Iassy, etc. associations, under the aegis and technical guidance of the Institute for the protection of mother and child. The situation is still giving cause for concern. Of the total number of AIDS cases reported up to 30 June 1992, more than 90% were children, and of these 90% were less than four years old (altogether, 1,599 Romanian children are suffering from AIDS as compared with 2,944 children in Europe, on the same date). This means that in Romania the AIDS epidemic is an essentially paediatric phenomenon. Steps have been taken to retrain and monitor all medical and nursing personnel with regard to the particular epidemiological characteristics of HIV infection in Romania and to alert the public and inform them of the protective measures that need to be taken.

131. In addition, workshops have been organized to establish priorities in paediatrics and neonatology and in the areas of assistance for expectant mothers and family planning. Seminars and courses have been held for the staff of child care units (orphanages). This training has been mainly given at national level, thus involving every department, and has received the technical and material support of experts from UNICEF, WHO, the Danish Red Cross, the European Community, etc., for example, the national traveling course called "Focus on the child" intended for all child care staff (1991).

132. Nevertheless, serious problems remain (the prevalence and scale of certain children's diseases are recorded in the annex to this report). These are attributable not only to medical shortcomings but also to the lack of funds and equipment that persists under the crisis conditions of the transition period. Thus, there is no powdered milk for infants (except for that supplied by the EEC and/or as international aid, which is not enough to meet the needs); there is a lack of certain drugs essential for preventing and treating various nutritional

disorders; there are no antibiotics or fungicides, which are particularly important for treating the infections to which child AIDS victims are susceptible; there are not enough disposable syringes or medical instrument sterilizers; there are too few medical kits for testing for HIV; there is a lack of special rehabilitation equipment; there is a shortage of trained staff in some types of unit.

133. Within the general context of the programme for improving child health and financing and supporting certain staff training and further training courses an important contribution has been made by the UNICEF office in Bucharest, which was set up at the request of the Romanian government and commenced activities in January 1991. It was initially intended that these activities should be pursued in the child care institutions for a period of two years (1991-1992), but in June 1992 they were extended for a further two years (1993-1994) by the UNICEF Executive Board, at the request of the Romanian party.

134. The UNICEF office has supported the refurbishing of 11 child care institutions for about 2000 handicapped children and has actively assisted with the training of their staff; at the same time, the office has provided teaching equipment and technical aids for conducting courses on welfare in university social services departments and has organized an intensive two-week course on welfare principles and practice for the specialists of the Ministry of Labour and Social Security; during 1991 the state of nutrition of 10,000 children was studied and the data obtained will be supplemented by the results of investigations of pre-natal and post-natal care and a statistical survey of maternal mortality to be undertaken in 1993. Preparations are being made for a meeting of representatives of the institutions and the NGO's involved with a view to perfecting the programme of cooperation between UNICEF and Romania for the years 1993-1994. The increasingly effective collaboration between government bodies, UNICEF and the non-governmental organizations is an important aspect of these efforts, especially as the Romanian non-governmental sector is becoming steadily more active and significant, having been recognized as a fundamental component of society.

VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

(a) Legislative measures

135. In accordance with article 32 of the 1991 Constitution, the right to education is ensured through compulsory general education, secondary education and vocational training, higher education and other forms of instruction and advanced training. At all levels, the language of instruction is Romanian. Under the conditions prescribed by law, an international language may also be used. The right of members of ethnic minorities to learn their mother tongue and their right to be taught in that language are guaranteed, the means of exercising these rights being prescribed by law. State education is free, in accordance with the law. Educational institutions, including private institutions, may be established and carry out their activities under the conditions laid down by law. The autonomy of the universities is guaranteed. The State will ensure freedom of religious education. In State schools religious education is organized and guaranteed by law.

(b) Education, including vocational training and guidance

136. With regard to education and vocational training and guidance, the statistics are as follows:

- Population of Romania: 23.3 million
- School population (1991-1992): 4,774,836, i.e. 21% of the total population
- Kindergartens: 742,066 children; 12,595 kindergartens. The pupil/teacher ratio is 27:1.
- Primary schools: number of pupils in first grade: 320,000 (1989-1990), 280,000 (1990-1991); number of schools: 6,100 (1989-1990), 6,000 (1990-1991), and 6,137 (1991-1992).
- Pupils enrolled in compulsory education: 2,891,810 (1989-1990), 2,700,645 (1990-1991) and 2,608,914 (1991-1992), including 1,211,239 pupils in grades I to IV and 1,397,675 in grades V to VIII.
- Teaching staff in compulsory/general education: 140,000 (1989-1990), 152,500 (1990-1991) and 153,157 (1991-1992)
- Number of lycée pupils: total 778,420; completing the course: 129,800 (1989-1990), 135,000 (1990-1991) and 188,732 (1991-1992).
- Lycées: about 1,000 (1989-1990), 1,200 (1990-1991) and 1,209 (1991-1992).
- Number of lycée and vocational training teachers: 34,000 (1989-1990), 46,000 (1990-1991) and 61,632 (1991-1992).
- Lycée pupil/teacher ratio: 39:1 (1989-1990) and 29:1 (1990-1991).
- Ratio of first-year students to lycée pupils completing their course: 18,900/129,800 (1989-1990), 42,000/135,000 (1990-1991) and 52,357/188,732 (1991-1992).
- Number of students: 153,000 (1989-1990), 170,000 (1990-1991) and 215,226 (1991-1992).
- Teachers in higher education: 11,900 (1989-1990), 14,000 (1990-1991) and 17,615 (1991-1992).
- Student/teacher ratio: 14:1 (1989-1990), 12:1 (1990-1991) and 12:1 (1991-1992).
- Number of grant-holders at all levels of education: 280,991 (1990-1991) and 254,586 (1991-1992).
- Education for ethnic minorities is summarized in the table reproduced in the annex.

- Number of kindergarten pupils, school pupils and students by gender (1991-1992):

  - pre-school education: 371,840 (M) and 370,226 (F)
  - general education: 1,333,388 (M) and 1,275,526 (F)
  - lycée education: 335,737 (M) and 442,686 (F)
  - university education: 116,196 (M) and 99,032 (F);

- Structure of teaching staff, excluding universities (1990-1991):

  - kindergarten teachers - 14.3% (F)
  - primary school teachers - 21% (F)
  - secondary school teachers - 54.6% (F)
  - foremen - 5.9% (F)
  - engineers - 4.2% (F).

(c) Leisure, recreation and cultural activities

137. Socio-cultural expenditure amounts to 33.4% of the national budget. This expenditure can be broken down as follows:

- art and culture - 1.5%
- child allowances - 22.9%
- welfare - 0.6%
- education - 38.5%
- health - 31.9%
- other expenditure - 4.7%.

VIII. SPECIAL PROTECTION MEASURES

138. (a) In the spirit of article 46 of the Constitution, the following measures have been taken on behalf of handicapped children, children from underprivileged socio-cultural backgrounds and children in situations of emergency: children over the age of three with certain treatable disabilities will be placed, as appropriate, in specialized institutions as follows: nursery schools, general schools or academic lycées for the disabled capable of rehabilitation; vocational schools or technical lycées for the disabled capable of rehabilitation; school-homes or workshop-homes for the disabled capable of partial rehabilitation.

139. For the disabled who cannot be rehabilitated there are special homes where minors remain until the age of 18 (they are then transferred to nursing homes for adults with irreversible disabilities).

140. There is a specialized network to provide care, education and academic and vocational training for handicapped minors requiring special attention which cannot be provided by the family. It is for the Committee for the protection of minors to decide to place the minor in one of the institutions mentioned above, as appropriate.

141. Placement in a children's home, a general school for the disabled capable of rehabilitation or a school-home for the disabled capable of partial rehabilitation and foster placement or placement with a family or individual with payment of the allowance last until the minor has completed his compulsory general education. If, at that time, the child does not begin work but continues

his vocational training, as an apprentice, or his studies, as a day school pupil, he remains - with his consent - in the care of the institution or of the individual or the family to which he has been entrusted. In these circumstances, the allowance is paid, without interruption, up to the end of the apprenticeship or studies, but not beyond the age of 25.

142. If, on completing his general education, the minor is incapable of working or, for some other good reason, is not employed, the protective measure and the payment of the allowance are extended until the reason for his not starting work no longer applies, but not beyond the age of 18.

Units for the special care and education of handicapped minors

Type of unit	Number of units	Number of children
1. Special nursery schools (including homes for disabled pre-school children)	35	1,931
2. School-homes	14	3,445
3. Auxiliary schools (including homes for disabled school-age children)	117	25,629
4. Schools for children with hearing disabilities (grades I to VIII)	13	2,345
5. Schools for children with impaired vision (grades I to VIII)	5	983
6. Vocational schools	39	15,134
7. Special lycées (5)		598
8. Post-lycée colleges (1)870	(operate as sections in the vocational school system)	870
9. Schools for the rehabilitation of maladjusted children	3	875
10. Nursing homes for severely handicapped minors	26	3,358
Grand total	252	54,337

143. A comparative analysis of the data reveals several significant trends: an increase in the number of nursing homes, but with fewer sections; a decrease in the number of children cared for in these units. The first trend is the result of the hiving off of nursing home sections which now operate as independent units. As for the second trend, in 1991 the numbers of hospitalizations and deaths recorded in the nursing homes for minors diminished sharply, becoming insignificant. In many cases, a number of children have left the nursing home for other types of unit. Most of the children in the nursing homes come from orphanages, where they have been abandoned. The rest come from their families.

144. The mode of life of the severely handicapped children is now generally comparable with that of children belonging to a normal group. The health of the minors receiving special protection has improved greatly now that their primary needs of nourishment, warmth and food are being properly met. Better hygiene, the elimination of malnutrition, the discontinuance of the practice of over-sedating children with behavioural problems, and the corrective operations being performed in Romania and abroad are some of the factors that have had a favourable effect on the children's development.

145. During the school year 1991-1992, 30,200 children were enrolled in special schools for the handicapped at primary and secondary level, 15,000 in special vocational schools and 800 in special lycées (a total of 46,000); there were 5,000 in school-homes for minors incapable of social integration (under the Ministry of Labour and Social Security) and 30,000 living in orphanages.

146. Still unresolved problems include the inadequate infrastructure of many of the above-mentioned institutions, the acute shortage of drugs and medicines, the partial continued employment of staff lacking the proper motivation and professional and teaching skills. In the longer term, the staffing problem will be overcome, since three new university departments for training social services professionals have been functioning in Bucharest, Cluj and Iassy since the start of the 1990-1991 academic year. Similarly, at the initiative of the Romanian National Committee for UNICEF, backed by the French organization Enfants du Monde Solidarité of Carcassonne, in January 1992 10 specialists attended an advanced training course on handicapped children and medical, psychological and pedagogical support measures given at specialized institutions in France. The programme resumes in October-December 1993 and will continue for the next two years with a series of 12-week courses for a total of 30 trainees. These initiatives are in addition to the efforts of the Romanian State and universities, which they supplement.

147. (b) With regard to the status of refugee children, no legislation has yet been adopted. However, a bill is in the course of being drafted.

148. (c) As far as children who infringe the penal law are concerned, according to Act No. 20/1970, in the case of minors who have committed a punishable offence but are not criminally responsible, or are at risk of again committing such an offence, or whose conduct is contributing to the spread of vice and immorality among other minors, the Committee for the protection of minors may take one of the following educative measures: place the parents or guardian under exceptional surveillance, supervised by the Committee; place the minor in a special re-education centre, if he is at least 10 years old and if the Committee considers that exceptional surveillance of the parents or guardian is not likely to be effective.

149. A minor being investigated in connection with an offence has the right to court-appointed counsel. He may consult his counsel even before making his first statement. In this case the parents' consent is not required. However, if the parents themselves wish to engage a lawyer of their choosing, their wishes have precedence and must be respected by the prosecution, even if the minor has already agreed to consult court-appointed counsel. This alternative is not a formality but is based on the assumption that the solution proposed by the parents, i.e. the engagement of a lawyer of their choosing, will be to the child's advantage.

150. (d) The alarm raised by the Romanian National Committee for UNICEF on 20 November 1991 - SOS ... street children - drew an immediate response from numerous associations, organizations and institutions, acting individually or jointly. The recent increase in the number of street children is attributable both to the effect on family relations of the general decline in the standard of living in Romania and to the lack of a coherent government strategy in this field, with a clear-cut allocation of resources and responsibilities. Most street children come from economically or socially marginalized families or are minors previously taken into care in various institutions in Bucharest or other big cities. The existing administrative and legislative system is unequal to the task, being mainly based on coercive and punitive measures which have shown themselves to be ineffective.

151. There is a direct correlation between the increase in the number of street children and the increase in the level of juvenile delinquency and the number of children dependent on drugs, in particular domestically produced solvents. It is estimated that there are about 5,000 of these children in Bucharest and the other big cities and this number may be expected to grow unless emergency measures are taken.

152. In the course of 1991, various government agencies and non-governmental organizations undertook to pay special attention to this category of minors and, to this end, initiated a series of programmes, including: the programme of the Ministry of Labour and Social Security in Bucharest; the programme of the organizations Red Barnet and Save the Children in the departments of Dolj and Timis; the Caritas programme in Bucharest.

153. The nature of these three programmes is as follows: they are based on close interdepartmental collaboration and on the constant support of the NGO's; they are interventionist rather than preventative; they are based on the maximum use of existing financial, material and human resources and on the Romanian legislation relating to the protection of minors at risk. The three projects propose a new non-coercive approach to street children which involves them in the taking of decisions concerning their future and the choice of long-term solutions for the protection of minors, other than placing them in institutional care.

154. These activities are viewed as an intermediate stage between the existence of the street child and a long-term solution, such as return to the family and community or placement in a substitute family or, as a last resort, in a child care centre.

155. The street children phenomenon is attracting exceptional attention to Bucharest, where the number of these children has doubled in the course of the last year (there are now about 11,500 of them). To deal with this situation, the Romanian National Committee for UNICEF, the Bucharest city council and a number of non-governmental organizations have devised an appropriate strategy. In this connection, with the support of the students of the law and social services departments of the University of Bucharest, a rigorous investigation of the causes of the phenomenon has been launched. It is intended to draw a psychological profile of the street child, to study the interpersonal relations between the minor and the adults that surround him (family, institution, local community), and to explore the relations on the street, the exploitation of minors by adults and the anxieties, aspirations and desires of street children. For the time being, the situation remains within normal bounds, but action is

being taken to prevent it from worsening. It is intended to establish pilot centres for the family and/or social reintegration of these children and young people.

156. On 12 February 1992, at the initiative of the Romanian department of Aide Inter-ecclésiastique (AIDROM), a dialogue was arranged between the organizations concerned with street children. AIDROM, Caritas, the Romanian National Committee for UNICEF, Christiana, Equilibre, the Research Centre for the Problems of Youth, the League of Orthodox Romanian Youth, the Bucharest city council, the Romanian Orphanage Trust, Save the Children, the Bucharest city police department, and the juvenile delinquency/court service all took part.

157. The street children phenomenon involves three distinct categories of minors: homeless children who have long been out of touch with their own family (or with the care services) and who live on the street or in public places; the vagrants by force of circumstance who have recently run away from home or an institution because they feel that living on the street is, at any rate, better than living with their family or in institutional care; and, finally, the working minors who are regularly in touch with their own family but try to meet their own needs or those of their family by begging in the streets or doing unskilled jobs (cleaning car windscreens, delivering packages, publicity, etc.) and/or seasonal work.

158. The object of the strategies that have been devised is, in the short term, to reduce the number of street children and, in the medium and long term, to eliminate the problem. They are based on the following principles, which underpin the programmes and measures aimed at this group of minors: the needs of the child come first and must be determined in each individual case, in consultation with the child; the wishes of the children must be taken into consideration, except where their powers of discernment or age do not permit; an implementation and follow-up plan and procedure must be drawn up for each targeted child and then monitored and periodically reviewed; in the absence of the family, only the State, through its specialized agencies, can take measures to protect these minors.

159. To sum up, Romania is passing through a difficult transition period with resources which, considering the complexity of the problems of child care and the legacy left by the previous regime, can only be described as inadequate. However, by coordinating governmental and non-governmental, institutional and non-institutional activities and, at the same time, involving, in a practical way, all the levels concerned on the basis of decentralization and encouragement of the independence and initiative of the local communities, the Romanian government and society, with broad international support, have made and are continuing to make a major and increasingly effective effort to implement the United Nations Convention on the Rights of the Child, with all that that entails.

160. During 1993, on the basis of the foundations that have been laid, efforts will be concentrated on drawing up a national plan of action for children, in accordance with the Declaration adopted by the World Summit for Children, held on 30 September 1990.

Bucharest, March 1993

List of Annexes*

I - Education in Romania

II - For the Romanian children

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* These are available for consultation in the files of the Centre for Human Rights.